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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/805,820	03/22/2004	Jon Michel Greenwood	P1920US00	1504
24333	7590	04/01/2008		
GATEWAY, INC. ATTN: Patent Attorney 610 GATEWAY DRIVE MAIL DROP Y-04 N. SIOUX CITY, SD 57049			EXAMINER GAUTHIER, GERALD	
			ART UNIT 2614	PAPER NUMBER
			MAIL DATE 04/01/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/805,820

Applicant(s)

GREENWOOD, JON MICHEL

Examiner

Gerald Gauthier

Art Unit

2614

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-22, 24-28 and 30-35 is/are rejected.
- 7) ☐ Claim(s) 9, 23 and 29 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date 3/22/04
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. **Claims 3, 5, 17 and 19** are objected to because of the following informalities:
the claims are not complete sentences. Correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. **Claims 1-8, 10-22, 24-28 and 30-35** are rejected under 35 U.S.C. 103(a) as being unpatentable over Owens et al. (US 2004/0005040 A1) in view of DeSimone (US 6,175,619 B1).

Regarding **claim 1**, Owens discloses a computerized method (FIG. 5 and paragraph 0003) comprising:

initiating a telephone session, said telephone session operable to receive input signals and send output voice signals [The message receiver 76 calls the telephones access service, paragraph 0045];

providing a personal identification number, said personal identification number identifying one or more user identifications for one or more messaging clients [The caller enters a personal identification number, paragraph 0045]; and

converting text data from the one or more messaging clients to output voice signals [The communications server 32 using a text-to-speech translation process for the e-mail message, paragraph 0038].

Owens discloses a text message but fails to disclose an instant message client.

However, DeSimone teaches an instant message client [The call broker 210 is an instant messaging client as the initiator of an instant message, column 5, lines 48-57].

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Owens using the instant message client as taught by DeSimone.

This modification of the invention enables the system to send an instant message or a text discussion in a private chat room so that the user would be responsible for payment of all call charges.

Regarding **claims 2 and 16**, DeSimone teaches a computerized method, further comprising providing an online status for the one or more instant messaging clients to the telephone session [The call broker 210 is an instant messaging client as the initiator of an instant message, column 5, lines 48-57].

Regarding **claims 3 and 17**, Owens discloses a computerized method, wherein the input signals are voice signals [The caller enters a personal identification number, paragraph 0045].

Regarding **claims 4 and 18**, DeSimone teaches a computerized method, further comprising converting the voice signals to text data and sending the text data to the one or more instant messaging clients [The call broker 210 is an instant messaging client as the initiator of an instant message, column 5, lines 48-57].

Regarding **claims 5 and 19**, Owens discloses a computerized method, further comprising recognizing the voice signals as instant messaging commands [The caller enters a personal identification number, paragraph 0045].

Regarding **claims 6 and 20**, Owens discloses a computerized method, wherein the input signals comprise keypad strokes [The caller enters a personal identification number, paragraph 0045].

Regarding **claims 7, 12 and 21**, Owens discloses a computerized method, further comprising converting the keypad strokes signals to alphanumeric data and transmitting the alphanumeric data to the one or more instant messaging clients [The caller enters a personal identification number, paragraph 0045].

Regarding **claims 8 and 22**, Owens discloses a computerized method, further comprising converting the keypad strokes to instant messaging commands [The caller enters a personal identification number, paragraph 0045].

Regarding **claims 10 and 24**, Owens discloses a method, wherein an instant messaging server is operable to receive said input signals and send said output voice signals [The caller enters a personal identification number, paragraph 0045].

Regarding **claim 11**, Owens in combination with DeSimone disclose all the limitations of claim 11 as stated in claim 1's rejection above.

Regarding **claim 13**, Owens discloses a system wherein the input module includes a speech to text module for receiving voice data from the telephone and converts the voice data to text data for output through the IM client module [The caller will get the message in text format, paragraph 0102].

Regarding **claim 14**, Owens discloses a system, further comprising a PIN database operable to maintain data mapping a PIN to an IM user identification [The caller enters a personal identification number, paragraph 0045].

Regarding **claim 15**, Owens in combination with DeSimone disclose all the limitations of claim 15 as stated in claim 1's rejection above. Furthermore Owens discloses a computer-readable medium having computer executable instructions for performing a method [A sophisticated computer system, paragraph 0032].

5. **Claims 25-35** are rejected under 35 U.S.C. 103(a) as being unpatentable over DeSimone in view of Van Schyndel (US 5,729,604).

Regarding **claim 25**, DeSimone discloses an instant messaging client system (FIG. 1 and column 1, lines 5-8) comprising:

an instant message (IM) client module [The call broker 210 in FIG. 2, column 5, lines 34-40].

DeSimone fails to disclose a proximity detector.

However, Van Schyndel teaches a proximity detector communicably coupled to the client module [The proximity detector 22 of FIG.1 and column 3, lines 59-63] and operable to:

detect a change in the presence of a client user [The detector senses the proximity of the user, column 4, lines 1-10];

update a client status in accordance with the change in presence [The detector switches the transducer from a loudspeaker mode to receiver mode, column 4, lines 11-16].

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of DeSimone using the proximity detector as taught by Van Schyndel.

This modification of the invention enables the system to detect the change in presence on the IM client module so that the user would have the communication device switches in different mode suitable for the user.

Regarding **claim 26**, Van Schyndel teaches a client system, wherein the proximity detector includes and Radio Frequency Identification detector [The detector option includes pulsed radar echo ranging, column 3, lines 64-66].

Regarding **claim 27**, Van Schyndel teaches a client system, wherein the proximity detector includes an ultrasonic detector [The detector option includes ultrasonic echo ranging, column 3, lines 64-66].

Regarding **claim 28**, Van Schyndel teaches a client system, wherein the proximity detector includes an infrared detector [The detector option includes infrared detector 26, column 3, lines 59-63].

Regarding **claim 30**, DeSimone in combination with Van Schyndel disclose all the limitations of claim 30 as stated in claim 25's rejection above.

Regarding **claim 31**, Van Schyndel teaches a method, wherein detecting the change in proximity includes detecting that the user has come within a range of a proximity detector [The detector option includes ultrasonic echo ranging, column 3, lines 64-66].

Regarding **claim 32**, Van Schyndel teaches a method, wherein detecting the change in proximity includes detecting that the user as exited a range of a proximity detector [The detector option includes ultrasonic echo ranging, column 3, lines 64-66].

Regarding **claim 33**, Van Schyndel teaches a method, wherein detecting the change in proximity includes determining a lack of activity on an input device [The detector output falls below 35% the failsafe feature switches the terminal, column 4, lines 40-53].

Regarding **claim 34**, Van Schyndel teaches a method, wherein determining a lack of activity includes determining a lack of activity for a predetermined timeout period [The detector forces the module for a preset time period for non presence, column 5, lines 1-8].

Regarding **claim 35**, Van Schyndel teaches a method, wherein detecting the change in proximity includes determining the resumption of activity on an input device [If the detector output rises above 65%the presence of the module is indicated and detection is resumed, column 4, lines 40-53].

Allowable Subject Matter

6. **Claims 9, 23 and 29** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald Gauthier whose telephone number is (571) 272-7539. The examiner can normally be reached on 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2614

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gerald Gauthier/
Primary Examiner, Art Unit 2614

/GG/
April 1, 2008